IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 144 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

---

COMMISSIONER OF INCOME TAX

Versus

S N PARUKH PARSI POLYTECHNIC INSTITUTE

---

Appearance:

1. INCOME TAX REFERENCE No. 144 of 1988
MR AKIL QURESHI FOR MR MANISH R BHATT for Applicant.
SERVED BY RPAD - (N) for Respondent No. 1

---

CORAM : MR.JUSTICE B.C.PATEL
and
MR.JUSTICE D.A.MEHTA

Date of decision: 11/12/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE D.A.MEHTA)

1 The following question is referred by the Income Tax Appellate Tribunal at the instance of the Commissioner, for assessment years 1981-82 to 1983-84 under Section 256(1) of the Income Tax Act,1961 :

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that income of the assessee was entitled to exemption under sub-section (22) of section 10 of the Income-tax Act,1961?"

2 At the time of hearing, Mr.Akil Qureshi appeared on behalf of the applicant-revenue. Though served none appears on behalf of the assessee. Mr.Qureshi pointed out that the controversy raised stands concluded by the decision of this Court in assessee's own case (C.I.T. vs. Sorabji Nusserwanji Parekh), 201 I.T.R.939. He further submited that the Tribunal has made a reference only because the earlier year's reference was pending. In light of this situation, it is not necessary to set out facts in detail.

3 For the reasons stated in the aforesaid reported decision in assessee's own case, we hold that the Tribunal was not right in holding that income of the assessee was entitled to exemption under sub-section (22) of section 10 of the Act. The question referred is therefore answered in the negative i.e. in favour of the revenue and against the assessee.

4 The reference stands disposed of accordingly. There shall be no order as to costs.

Sd/- Sd/-

(B.C.Patel, J) (D.A.Mehta,J)

m.m.bhatt